

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 07- 03

AN ORDINANCE AMENDING THE TIGARD MUNICIPAL CODE TO ADD SECTION 7.40.125 AND AMENDING SECTION 1.16.030 FOR THE REGULATION OF GRAFFITI IN PUBLIC PLACES.

WHEREAS, the rate of graffiti left on public places in the city is increasing; and

WHEREAS, gang graffiti and hate graffiti have been associated with some of the recent incidents reported by the Tigard Police Department; and

WHEREAS, the Police Department is well placed to observe the nuisance and to act to enforce the new city regulations against graffiti; and

WHEREAS, the Council finds that graffiti has become a nuisance affecting public safety that should be closely regulated, and to do so is in the public interest and necessary for the peace, health and safety of the general public;

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Tigard Municipal Code is amended by adding a new Section 7.40.125 Graffiti, to read as follows:

7.40.125 Graffiti

A. Definitions.

As used in this section, unless the context requires otherwise:

1. "Abate" means to remove graffiti from the public view.
2. "Graffiti" means any inscription, word, figure, or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, which is visible from premises open to the public, such as public right of ways or other publicly owned property, and that has been placed upon any real or personal property, such as buildings, fences, and structures, without authorization from the owner or responsible party.
3. "Graffiti nuisance property" means a property upon which graffiti has been placed and such graffiti has been permitted to remain for more than

14 days after the property owner of record or occupant has been issued written notification.

4. "Manager" means the Tigard City Manager or the manager's designee who is responsible for the administration of the graffiti nuisance abatement program under this chapter.
5. "Occupant" means any person, tenant, sublessee, successor or assignee that has control over property.
6. "Owner" means any person, agent, firm or corporation having a legal or equitable interest in a property and includes but not limited to a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property such as utility poles, drop boxes, postal collection boxes, and other types of containers.
7. "Permit" means to knowingly allow, suffer, or acquiesce by any failure, refusal, or neglect to abate.
8. "Premises open to the public" means all public spaces, including but not limited to streets, alleys, sidewalks, parks, rights of way and public on space, and private property onto which the public is regularly invited or permitted to enter for any purpose.
9. "Property" means any real or personal property, including but not limited to items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults, and post office collection boxes.
10. "Responsible party" means an owner, an entity or person acting as an agent for an owner by agreement that has authority over the property or is responsible for the property's maintenance or management. There may be more than one party responsible for a particular property.
11. "Unauthorized" means without consent of the owner, occupant or responsible party.

B. Graffiti Nuisance Property

1. Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this section and is subject to its remedies.
2. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this section and subject to its remedies.

C. Graffiti Removal; Notice and Procedures

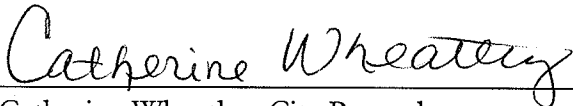
1. This subsection sets out procedures to be used in processing an infraction of Section 7.40.125, notwithstanding Subsections 7.40.030.C and 1.16.060.2 of this Code. Except as provided herein, other applicable provisions of Chapter 1.16 shall remain in effect.
2. The owner or occupant of any property within the City of Tigard shall remove any graffiti from that property within 14 days of the graffiti's appearance.
3. Whenever the Manager determines that graffiti exists on any property in the City, the Manager may issue an abatement notice. The owner or occupant shall have 14 days after the date of service of the notice to remove the graffiti.
4. The notice shall be served by addressing the notice to the owner or occupant and delivering it by personal service or by mailing it as certified mail. Service may also be accomplished by posting the notice in a clearly visible location on the subject property.
5. If the person who was served the notice is unable to remove, or cause to remove, the graffiti within the 14-day period due to a hardship, he or she may apply to the Manager for an extension of time in which to remove the graffiti. For purposes of this subsection, "hardship" includes but is not limited to serious illness or disability, extremely inclement weather that temporarily prevents removal of the graffiti, or other extraordinary circumstance.
6. If the graffiti is not removed within 14 days after serving notice on the owner or occupant, the Manager may cause a citation to be issued to the owner or occupant or both requiring the person to appear in Tigard Municipal Court.
7. Failure to remove the graffiti as required by this section is a violation punishable by a fine of up to one hundred dollars. Each day the graffiti remains after the notice is sent constitutes a separate offense.
8. The City Manager may adopt rules and procedures to implement this section.

SECTION 2: Tigard Municipal Code Subsection 1.16.030 2. is amended to read as follows:
(**Bold** is new language):


2. "Code Enforcement Officer" means the individual or individuals appointed or designated by the Director of Community Development or the City Manager to enforce the provisions of this chapter. For enforcement of Chapters 10.16 through 10.32, **Section 7.40.125**, and Chapter 7.60, "Code Enforcement Officer" also includes Community Service Officers of the police department.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

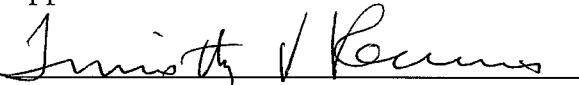
PASSED: By Unanimous vote of all Council members present after being read by number and title only, this 27th day of March, 2007.


Catherine Wheatley, City Recorder

APPROVED: By Tigard City Council this 27th day of March, 2007.


Craig Dirksen, Mayor

Approved as to form:


City Attorney

March 27, 2007
Date

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